

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
<b>Telecommunications Relay Services for</b>	)	
<b>Individuals with Hearing and Speech</b>	)	<b>CG Docket No. 03-123</b>
<b>Disabilities, and the Americans with</b>	)	
<b>Disabilities Act of 1990</b>	)	

**MCI COMMENTS  
HOVRS PETITION FOR DECLARATORY RULING**

MCI hereby strongly supports the petition filed by Hands On Video Relay Services, Inc. (“HOVRS”) for the Commission to declare that the minutes devoted to recording video relay mail qualify for reimbursement from the Interstate Relay Fund (“Fund”).<sup>1</sup> The Interstate Relay Fund is currently reimbursing relay providers for minutes devoted to recording voice mail messages left by relay users, including video relay service (“VRS”) users on the answering machines of persons without hearing disabilities, but HOVRS understands that the Commission’s Disability Rights Office has directed the National Exchange Carrier Association (“NECA”), who administers the Fund, to refrain from reimbursing VRS providers for minutes associated with recording a video mail message until the Commission has formally declared this service is entitled to be reimbursed from the Fund. MCI urges the Commission to quickly declare VRS mail is a reimbursable service, and to reimburse all VRS providers for minutes devoted to this purpose from the date HOVRS filed its Petition.

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<sup>1</sup> Hands on Video Relay Services, Inc., Petition for Declaratory Ruling, CC Docket No. 98-67, filed March 31, 2004); Public Notice, DA 04-2062, CG Docket. No. 03-123 (July 9, 2004)

The Commission has found voice mail to be an essential component of functionally equivalent service in a number of settings. First, in its *Disability Access Order*, the Commission used its ancillary authority to bring voice mail and interactive menu systems under the accessibility requirements of the Americans with Disabilities Act (“ADA”) (*inaccessible voicemail and interactive menus could defeat the effective implementation of sections 255 and 251(a)(2)*).<sup>2</sup> Notably, the Commission also determined that both the service and the equipment of these information services are subject to these Sections of the 1996 Telecommunications Act.<sup>3</sup> MCI concludes from this that the Commission should reimburse VRS providers for video mail.

The Commission thought functionally equivalent access to voice mail was so important, that it didn’t rely solely on the disability access sections of the 1996 Telecommunications Act to implement its objective. It also adopted interactive voice mail pursuant to its authority under Title IV of the Americans with Disabilities Act (“ADA”), which was codified at Section 225 of the Communications Act.<sup>4</sup> Specifically, the Commission required relay providers to ensure that Communications Assistants alerted users that they had reached a recorded message through a “hot key.”<sup>5</sup> It required relay operators to record and rewind recorded messages for the length of

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<sup>2</sup> Implementation of Section 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996, WT Docket No. 96-198, *Report and Order and Further Notice of Inquiry*, 16 FCC Rcd 6417 (1999) (*Disability Access Order*), & 99.

<sup>3</sup> *Id.*, & 98.

<sup>4</sup> 47 USC §225.

<sup>5</sup> In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-67, FCC 00-56, 15 FCC Rcd 5140 (rel. March 6, 2000) (First Improved TRS Order) at ¶94.

the call.<sup>6</sup> Finally, it limited relay providers to a single charge when successive calls were needed to complete relay interactions with voice or menu systems.<sup>7</sup>

More recently, in its *Second Improved TRS Order*, the Commission determined that relay providers were required to ensure CAs would listen to messages on a caller's answering machine and relay those messages back to the caller.<sup>8</sup> The Commission also allowed relay providers to be reimbursed for the minutes associated with this function.

Functionally equivalent access to voice mail has clearly been a priority for the Commission in meeting its larger goal of providing functionally equivalent communications for persons with disabilities. The Commission must therefore ensure the provision of a service such as VRS mail. As HOVRS explains, VRS mail is provided when a hearing person calls a VRS provider in order to communicate with a VRS user. If the VRS user is not available to take the call, the CA will record a video message for subsequent retrieval by the called party, if directed to do so by the calling party. In terms of functional equivalency, this is no different than what would occur if a hearing caller attempted to reach a person with a hearing disability, and authorized the CA to leave a voice message on the called party's answering machine. In terms of functional equivalency, it does not matter that the message being recorded is a video message rather than a voice message. After all, the Commission has approved VRS for reimbursement.

For these reasons, MCI urges the Commission to quickly declare VRS mail is a reimbursable relay service, and to reimburse all VRS providers for minutes already devoted to this purpose, as well as on a going-forward basis.

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<sup>6</sup> *Id.* at ¶95.

<sup>7</sup> *Id.* at ¶96.

<sup>8</sup> In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-67, CG Docket No. 03-123, FCC 03-112 (rel. June 17, 2003) (Second Improved TRS Order) at ¶63

Respectfully submitted,

/s/Larry Fenster

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### **Statement of Verification**

I have read the foregoing and, to the best of my knowledge, information and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct.

Executed on August 16, 2004

/s/ Larry Fenster

Larry Fenster